

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Tana Comer)	
	Map 038-00-0, Parcels 133.00 & 123.00)	Davidson County
	Residential Property)	
	Tax Year 2007)	

INITIAL DECISION AND ORDER

Statement of the Case

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on September 28, 2007. The subject property is presently valued as follows:

Parcel 133.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$44,500	\$139,800	\$184,300	\$46,075

Parcel 123.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$33,000	\$11,600	\$44,600	\$11,150

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on March 6, 2008, at the Davidson County Assessors' Office. Present at the hearing were Tana Comer, the taxpayer who represented herself and Jason Poling, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of two parcels of land, Parcel 133.00 (8.92 acres) is commonly called 5570 Eaton's Creek Road and Parcel 123.00 (3.00 acres) is commonly called 5550 Eaton's Creek Road, both located in Nashville and Davidson County, Tennessee.

The taxpayer, Tana Comer's issue is the denial by the county of placing her property in Greenbelt status. Ms. Comer is using her property as an organic farm called Eaton's Creek Organics. She has been in business since 2001 and supplies certified organic vegetables, herbs and flowers to the Franklin Farmer's March, local health food stores, restaurants and shareholders. Ms. Comer contends that her farm is exactly the type of farm/business that the legislature intended to benefit from the Greenbelt statute.

The assessor contends that The Agricultural, Forest and Open Space Land Act of 1976, commonly known as the Greenbelt Law is quite specific in its requirements. Two or more separate tracts under the same owner may qualify if one is at least **15** acres and

none is less than 10 acres, if all are part of a farm. . T.C.A. § 67-5-1004(1)(B) (emphasis supplied).

Ms. Comer’s land unfortunately does not meet the minimum land requirements of the statute.

Ms. Comer’s remedy lies with the legislature not with the Davidson County’s Assessor’s Office or the State Board of Equalization.

After having reviewed all the evidence in this case, the administrative judge finds that the subject properties do not meet the basic requirements of the Greenbelt Law, “The Agricultural, Forrest and Open Space Land Act of 1976”.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board*, 620 S.W. 2d 515 (Tenn. App. 1981).

With respect to the issue of whether the parcels should been given Greenbelt status, the administrative judge finds that Ms. Comer simply introduced insufficient evidence.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

Parcel 133.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$44,500	\$139,800	\$184,300	\$46,075

Parcel 123.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$33,000	\$11,600	\$44,600	\$11,150

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be filed within thirty (30) days from the date the initial decision is sent.**” Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the

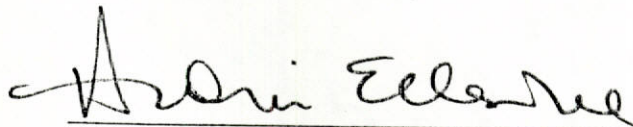
Executive Secretary of the State Board and that the appeal “**identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order**”; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 31st day of March, 2008.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Ms. Tana Comer
Jo Ann North, Assessor of Property